House of Representatives

General Assembly

File No. 110

February Session, 2008

House Bill No. 5601

House of Representatives, March 20, 2008

The Committee on Environment reported through REP. ROY, R. of the 119th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT BANNING CHILDREN'S PRODUCTS CONTAINING LEAD, PHTHALATES OR BISPHENOL-A.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subsection (e) of section 21a-335 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2009*):

(e) "Hazardous substance" means: (1) (A) Any substance or mixture of substances which (i) is toxic, (ii) is corrosive, (iii) is an irritant, (iv) is a strong sensitizer, (v) is flammable or combustible, or (vi) generates pressure through decomposition, heat or other means, if such substance or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children; (B) any substances which the administrator by regulation finds meet the requirements of subdivision (1) (A) of this subsection pursuant to the provisions of subsections (b) and (c) of section 21a-336; (C) any substance classified

as a hazardous substance pursuant to federal regulations adopted under the authority of the federal Hazardous Substances Act (15 USC 1261 et seq.); (D) any radioactive substance, if, with respect to such substance as used in a particular class of article or as packaged, the administrator determines by regulation that the substance is sufficiently hazardous to require labeling in accordance with this section and sections 21a-336 to 21a-346, inclusive, in order to protect the public health; (E) any toy or other article (i) intended for use by children which the administrator by regulation determines in accordance with subsection (a) or (b) of section 21a-336 presents an electrical, mechanical or thermal hazard, (ii) marketed for the use of children under the age of twelve years, containing lead in concentrations exceeding forty parts per million, or Di(2-ethylhexyl) phthalate (DEHP), dibutylphthalate (DBP) or butyl benzyl phthalate (BBP), in concentrations exceeding one-tenth of one per cent, or (iii) marketed for the use of children under the age of three years and capable of being put in a child's mouth, containing Diisononyl phthalate (DINP), diisodecyl phthalate (DIDP) or di-n-octylphthalate (DnOP), in concentrations exceeding one-tenth of one per cent or containing bisphenol-A or other chemical included on the list compiled by the Department of Environmental Protection pursuant to section 2 of this act; (2) "hazardous substance" shall not apply to economic poisons subject to the federal Insecticide, Fungicide and Rodenticide Act or chapter 441 nor to foods, drugs and cosmetics subject to chapter 418, nor to substances intended for use as fuels when stored in containers and used in the heating, cooking or refrigeration system of a house, but such term shall apply to any article which is not itself an economic poison within the meaning of the federal Insecticide, Fungicide and Rodenticide Act or said chapter 441 but which is a hazardous substance within the meaning of subdivision (1) of this subsection by reason of bearing or containing such an economic poison; (3) "hazardous substance" shall not include any source material, special nuclear material or by-product material as defined in the Atomic Energy Act of 1954, as amended, and regulations issued pursuant thereto by the Atomic Energy Commission.

Sec. 2. (NEW) (*Effective October 1, 2008*) (a) The Commissioner of Environmental Protection shall compile a list of substances determined, in peer-reviewed scientific studies or federal government publications, to pose significant risk to human health, including, but not limited to, substances that: (1) Cause cancer, (2) harm human reproduction or development, (3) are neurotoxic, (4) disrupt hormonal rhythms, or (5) are toxic.

(b) The Commissioner of Environmental Protection may participate in an interstate clearinghouse to (1) classify chemicals existing in commercial goods into one of four categories, those of: (A) High concern, (B) moderate concern, (C) low concern, or (D) unknown concern; (2) organize and manage available data on chemicals, including, but not limited to, information on uses, hazards and environmental concerns associated with chemicals; (3) produce and inventory information on safer alternatives to specific uses of chemicals and model policies and programs related to such alternatives; (4) provide technical assistance to businesses and consumers relating to safer chemicals; and (5) other activities related to this section.

Sec. 3. (NEW) (*Effective from passage*) On or before October 1, 2008, the Board of Trustees of The University of Connecticut shall establish an Innovation Institute which shall be affiliated with The University of Connecticut Health Center. The purpose of the institute shall be to help Connecticut industries evaluate hazardous substances, as defined in section 21a-335 of the general statutes, as amended by this act, in production and materials, and to suggest safer alternatives. Not later than twelve months after the date of its establishment, the institute shall have: (1) Completed an assessment of key chemical uses in Connecticut, taking into consideration (A) REACH registration or authorization list, (B) the amount of chemicals used, and (C) the perceived hazard or concern for occupational or environmental effects; (2) created a web site containing links on safer chemical alternatives, information on substances of concern, chemical policy development and related information; and (3) identified resources for developing a

more complete understanding of the state economy in relation to carcinogens and chemical use, including, but not limited to, products made, exporting markets, emerging technologies or products, estimates of potential health and economic costs of chemical-related illness, and Connecticut cancer rates and the rates of other chemical-related conditions such as asthma, neurotoxicity and endocrine disruption, and patterns in relation to potential chemical exposures.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*January 1, 2009*	21a-335(e)
Sec. 2	*October 1, 2008*	New section
Sec. 3	*from passage*	New section

ENV *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 09 $	FY 10 $
Department of Environmental Protection	GF - Cost	50,000	51,500
Department of Environmental Protection	GF - Potential Cost	3,500	3,605
Public Health, Dept.	GF - Cost	57,444	75,876
Comptroller Misc. Accounts (Fringe Benefits)[1]	GF - Cost	26,927	74,111
UConn Health Ctr.	Various - Cost	Significant	Significant
Consumer Protection, Dept.	GF - Cost	187,000	152,000

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill would result in a cost to the Department of Environmental Protection (DEP) for an Environmental Analyst 2, of about $50,000, plus fringe benefits, in FY 09, and $51,500, plus fringe benefits, in FY 10 to develop the list of chemicals described in Section 2 of the bill. There could also be a cost of $3,500 in FY 09 and $3,605 in FY 10 for DEP to subscribe to various databases and hold subscriptions, since the bill allows the agency to participate in an interstate toxic chemical clearinghouse.

It should be noted that under law (Section 22a-1i CGS), the Department of Public Health (DPH) is designated as the lead state

[1] The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller. The first year fringe benefit costs for new positions do not include pension costs. The estimated first year fringe benefit rate as a percentage of payroll is 25.36%. The state's pension contribution is based upon the prior year's certification by the actuary for the State Employees Retirement System (SERS). The SERS fringe benefit rate is 33.27%, which when combined with the rate for non-pension fringe benefits totals 58.63%.

agency responsible for the risk assessment of human health regarding toxic substances. It is anticipated that the department will require one additional Toxicologist to assist DEP by conducting health risk assessments. The partial-year cost associated with this position would be $57,444 in FY 09 (including Other Expenses and one-time Equipment), plus fringe benefits; the annualized cost would be $75,876, plus fringe benefits, in FY 10.

This bill requires the University of Connecticut Health Center (UCHC) to establish an Innovation Institute to evaluate hazardous substances in production and materials. This will result in significant increased costs for the Health Center for personnel, office and lab space and other costs. The extent of these costs will depend upon the size, scope and structure of the Institute, which is not specified in the bill.

A fully staffed, academic structure would include a director, chief scientist, chemical engineer, toxicologist, planner, industrial hygienist, and training coordinator, as well as administrative support and other coordination with UConn faculty. This model is estimated to have annual personnel costs of $1.25 million, including fringe benefits. Such a structure would require an estimated $270,000 annually in rent, consultant and Other Expense costs, as well as one time costs of $400,000 to establish and staff the Institute.

The bill results in a cost to the Department of Consumer Protection of approximately $187,000 in FY 09. This cost is due to the need for one Staff Attorney and two Consumer Product Inspectors plus related Other Expenses and Equipment. Equipment needs include a lead testing machine at a cost of approximately $35,000.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis

HB 5601

AN ACT BANNING CHILDREN'S PRODUCTS CONTAINING LEAD, PHTHALATES OR BISPHENOL-A.

SUMMARY:

This bill bans toys and other articles intended for children that contain lead and certain other chemical compounds. It requires the Department of Environmental Protection (DEP) commissioner to compile a list of substances that pose a significant human health risk, and authorizes her to take part in an interstate clearinghouse to classify chemicals according to the risks they pose. It requires the University of Connecticut Board of Trustees to create an Innovation Institute to help Connecticut industries evaluate hazardous substances.

EFFECTIVE DATE: Upon passage for the creation of the institute; October 1, 2008 for the provisions affecting the DEP; and January 1, 2009 for the ban on toys and other articles intended for children.

BAN ON CERTAIN TOYS AND OTHER CHILDREN'S PRODUCTS

The law prohibits the introduction or delivery into commerce of a banned hazardous substance. By law, this includes a toy or other article intended for children's use that contains a hazardous substance (CGS § 21a-335(p)). The bill specifically defines as a hazardous substance in this context, a toy or other article:

1. marketed for children 12 years old or younger containing more than (a) 40 parts per million (ppm) of lead, or (b) di(2-ethylhexyl) phthalate (DEHP), dibutylphthalate (DBP), or butyl benzyl phthalate (BBP) in concentrations greater than one-tenth of 1%; or

2. marketed for children three years old and younger and capable of being put in a child's mouth, containing (a) diisononyl phthalate (DINP), diisodecyl phthalate (DIDP), or di-n-octylphthalate (DnOP), in concentrations greater than one-tenth of 1%; (b) bisphenol-A; or (c) other chemicals included on the list the bill requires DEP to compile.

DEP LIST OF HARMFUL CHEMICALS

The bill requires the DEP commissioner to compile a list of substances determined, in peer-reviewed scientific studies or federal publications, to pose a significant risk to human health, including substances that:

1. are carcinogenic,
2. harm human reproduction or development,
3. damage the nervous system,
4. disrupt hormonal rhythms, or
5. are toxic.

It authorizes the commissioner to participate in an interstate clearinghouse to (1) classify chemicals used in commercial products according to whether they are of high, moderate, low, or unknown concern, and (2) organize and manage available data on chemicals. The data must include information on their use, hazards, and environmental concerns. The commissioner, through the clearinghouse, may also (1) produce and inventory information on (a) safe alternatives to specific chemical uses and (b) model policies and programs related to these alternatives, and (2) provide technical assistance to businesses and consumers regarding safe chemical alternatives. She may participate in other related activities.

INNOVATION INSTITUTE

The bill requires the UConn Board of Trustees to establish an Innovation Institute affiliated with the UConn Health Center. The

institute must help industries in Connecticut evaluate hazardous substances used in production and materials, and to suggest safer alternatives. No later than one year after it is established, the institute must:

1. complete an assessment of key chemical uses in Connecticut, taking into consideration (a) REACH registration or authorization list, (b) the amount of chemicals used, and (c) their occupational or environmental effects;

2. create a website with links on safer chemical alternatives, information on substances of concern, chemical policy development, and related information; and

3. identify resources for developing a more complete understanding of the state economy in relation to carcinogens and chemical use, including (a) products made, (b) export markets, (c) emerging technologies or products, (d) estimates of potential health and economic costs of chemical-related illness, (e) the rates of cancer, asthma, neurotoxicity, and endocrine disruption, and (f) patterns of potential chemical exposure.

BACKGROUND

REACH registration

REACH is a European Community regulation on the safe use of chemicals. The aim of REACH is to better protect human health and the environment through the better and earlier identification of the intrinsic properties of chemical substances.

Bisphenol-A

Bisphenol-A is an industrial chemical used to make polycarbonate plastics found in such products as beverage containers, compact discs, protective food can linings, plastic dinnerware, and epoxy resins. In laboratory animal tests, it has been shown to have hormone-like effects on the reproductive system.

Phthalates

Phthalates are a group of chemicals used primarily to add flexibility to plastics. DEHP, for example, is used in polyvinyl chloride (PVC) plastics, including medical supplies and tubing. Tests of laboratory animals have shown that exposure to DEHP can cause adverse effects on development and reproduction. The European Parliament has banned the use of DEHP, DBP, and BBP in children's toys or childcare articles. It has restricted the use of DINP, DIDP, and DNOP to toys and childcare articles that cannot be placed in the mouth.

COMMITTEE ACTION

Environment Committee

Joint Favorable
Yea 19 Nay 9 (03/07/2008)